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SUBJECT: COALITION GOVERNMENT FINDS COMMON GROUND ON  
EXTRAJUDICIAL KILLINGS REPORT

REF: A. NAIROBI 1014

[B](#). NAIROBI 525

[C](#). NAIROBI 458

[D](#). NAIROBI 413

#### SUMMARY

[1](#). On June 3, the U.N. Special Rapporteur on Extrajudicial Killings Philip Alston presented to the U.N. Human Rights Council his final report on his recent visit to Kenya. The report concluded that extrajudicial killings by police were systematic, widespread, and carefully planned. It also decried the continued impunity for post-election violence, and criticized the Sabaot Land Defense Force, the police, and the military for brutality, torture, and extrajudicial killings in the Mt. Elgon conflict. Despite the overwhelmingly negative nature of the report, there is a small bright spot. The Orange Democratic Movement forced the Party of National Unity to reconsider its initial rejection of Alston's report. As a result, the government presented a united coalition approach. Its statement to the Human Rights Council accepted most aspects of Alston's report and acknowledged the need for police reform. This approach, along with pressure from the U.S., may provide new impetus to the police reform task force recently established by the government (Reftel A). End Summary.

#### EJ Killings: Systematic and Widespread

[2](#). On June 3, the U.N. Special Rapporteur for Extrajudicial Killings Philip Alston presented to the U.N. Human Rights Council his final report on his visit to Kenya in February. The conclusions of the report are substantially similar to those contained in Alston's preliminary report, issued in February (Reftel D). Alston concluded that extrajudicial killings are systematic and widespread in Kenya. His report roundly condemned the police for its lack of internal accountability, concluding that Kenyan police operate with impunity. Alston restated that Police Commissioner Hussein Ali should be sacked for his complicity in extrajudicial killings. Likewise, Alston stated that Attorney General Wako should resign for failing to tackle the complete impunity which exists in relation to extrajudicial killing.

[3](#). The report condemned the Sabaot Land Defense Force and government security forces for widespread brutality, including torture and unlawful killings in the Mt. Elgon conflict. It criticized both the police and military for denying abuses and for their "methodical intimidation of human rights defenders and witnesses." Alston also criticized the GOK's lack of action on the recommendations of the Waki Commission, which proposed measures to address the systemic causes of the post-election violence and criticized the government for failing to tackle impunity for those who committed post-election violence, including extrajudicial killings.

## Threats to Human Rights Defenders

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¶4. Alston told the Human Rights Council that the GOK had made "systemic attempts to silence criticism of Kenya's security forces." He noted that two prominent human rights activists who had provided him information during his visit were murdered shortly thereafter (Reftel C) and that more than 20 activists had been forced into hiding or exile due to government threats and harassment (Reftel B).

### Public Reaction

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¶5. The Kenyan press gave wide coverage to an advance copy of the Special Rapporteur's report. The public had a good understanding of the issues; press had covered extensively the Special Rapporteur's preliminary report in February, as well as civil society reports detailing accusations of extrajudicial killings. The public largely accepted the report, though concerns were voiced that the Special Rapporteur had gone too far in recommending the sacking of high GOK officials.

### PNU Prepares to Reject Report

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¶6. President Kibaki's Party of National Unity (PNU) maintains political control over the three institutions that Alston criticized most severely: the police, the military, and the justice system. Reacting to the report, PNU once again showed that it considers the security forces and justice system its own bailiwick. Without consulting its coalition partners, the (PNU-controlled) Office of the Government Spokesman on May 29 issued a condemnation of Alston's report, and attacked Alston as a "bigoted activist" and termed his report "a baseless fabrication devoid of even an iota of a fact." A delegation consisting of three PNU ministers (the Minister of Internal Security and Provincial Administration, the Minister of Foreign Affairs, the Minister of Justice, National Cohesion, and Constitutional Affairs) and the PNU-leaning Attorney General was prepared to travel to Geneva to present the GOK/PNU's rebuttal to Alston's report.

### ODM Forces Coalition Approach

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¶7. The Orange Democratic Movement (ODM) quickly objected to the government spokesman's statement, claiming PNU had not consulted ODM on the statement or on the composition of the delegation traveling to represent Kenya at the Human Rights Council. Furthermore, ODM claimed that it supported the Special Rapporteur's conclusions. Consultations between the President and Prime Minister ensued, which resulted in agreement that two ODM ministers would join the GOK's delegation. Once in Geneva, the ODM ministers pressed the case that Kenya would not benefit by rejecting the report categorically, and that the Kenyan public would not accept a complete denial of a commonly-accepted problem. The two sides ultimately agreed to a statement whereby the government acknowledged that extrajudicial killings (especially by police) are a problem and that significant police reform is necessary. The government accepted the majority of Alston's conclusions as "constructive and useful." The government's major reservations related to the demand that the Police Commissioner and Attorney General resign or be sacked.

### Comment

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¶8. The GOK's initial rejection, and ultimate acceptance, of the Special Rapporteur's final report demonstrates, once again, the divisions and dysfunctional decision-making within the grand coalition government. The silver-lining is that, on this issue, the PNU and ODM were able to find common ground and accept that police reform is needed. This

represents a victory for ODM, which has struggled to make itself heard on matters relating to the police and military. The government's acceptance that police reform is needed, along with continued pressure from the United States and the international community, increases the chances that the recently appointed Police Reform Task Force may result in serious reforms. End Comment.

RANNEBERGER